

Trial of “Offences Arising Out of Violation of Human Rights”- A Study on the Human Rights Courts of Gujarat (India)

*Ruchita Kaunda*¹

*Prof. (Dr.) S. Shanthakumar*²

Abstract

The Protection of Human Rights Act, 1993 (the ‘PHRA’) came into force on 28th September 1993 and is the primary legislation for protecting Human Rights in India. The PHRA aims to provide better human rights protection to the people by setting up Human Rights Court(s) (HRC) for providing speedy trial of “offences arising out of violation of human rights”. The PHRA, however, does not define or lay down the “offences” that can be construed as arising out of violation of human rights. The paper aims to understand the phrase “offences arising out of violation of human rights” through the interpretation adopted by the Higher Courts of India. Seeking guidance therefrom the authors enlist some of the “offences” within the Indian Penal Code, 1860 which the HRC(s) can try as “offences arising out of violation of human rights”. Furthermore, to determine whether the failure to list the offences impedes the practical operation of the HRC(s), the paper conducts an in-depth study of the cases filed before the HRC(s) in the State of Gujarat. Besides that, the authors conduct a survey among the advocates who practice in these courts, to determine their understanding of the phrase “offences arising from violations of human rights,” since they’re a layperson’s first point of contact within the judicial system. The authors conclude that the failure to codify the nature of offences triable before the HRC(s) causes confusion among advocates, undermining the institution’s potential. The PHRA should therefore be amended to include the offences that can be tried before the HRC(s).

¹ PhD Research Scholar, Gujarat National Law University, Gandhinagar, Gujarat 382028, India. E-mail: (ruchitaphd202038@gnlu.ac.in).

² Director, Gujarat National Law University, Gandhinagar, Gujarat, 382028, India. E-mail: (vc@gnlu.ac.in).

Key words: Human Rights Courts, Human Rights Offences, Human Rights, Human Rights Violations, The Protection of Human Rights Act, 1993.

I. Introduction

India has a long history of valuing human rights. A brief examination of the Indian freedom movement reveals that the constant trampling of people's rights and liberties was the major driving force behind the freedom struggle.³ The Constitution Assembly, which was formed to create a comprehensive framework for guiding and governing the country after independence, thus paid special attention to the protection of every citizen's inherent rights.⁴ As a result, the final draft of the Constitution of India (the 'Constitution') included a fundamental framework for a rights-based regime guaranteeing a vast majority of rights enshrined in the 1948 Universal Declaration of Human Rights (UDHR).⁵ Part III, titled "Fundamental Rights," of the Constitution contains justiciable civil and political rights such as the right to life and liberty, the right to equality, the right to an individual's dignity, and so on.⁶ The Directive Principles of State Policy (DPSP) in Part IV, on the other hand, include the non-justiciable economic and social rights such as the right to work, right to shelter etc. Although not legally binding, the DPSP are regarded as critical to the country's governance.⁷ In fact with a liberal approach adopted by the Hon'ble Supreme Court many of the rights

³ RAM MANOHAR LOHIYA, THE STRUGGLE FOR CIVIL LIBERTIES 40 (Foreign Department AICC, 1936); Miloon Kothari, *Remembering India's Contribution to the Universal Declaration of Human Rights*, The Wire (2018), <https://thewire.in/rights/indias-important-contributions-to-the-universal-declaration-of-human-rights>.

⁴ Manish Kanadje, *Analysis of the Constituent Assembly Debates*, PRS Legislative Research (Nov. 25, 2019), https://prsindia.org/files/policy/policy_vital_state/PRS_Constituent_Assembly_Debates_Final.

⁵ Dr. Anant Kalse, *Human Rights in Constitution of India*, Commonwealth Parliamentary Association (Dec. 30, 2016), <http://mls.org.in/books/H-2537%20Human%20Rights%20in.pdf>.

⁶ INDIA CONST. art. 12- 35.

⁷ INDIA CONST. art. 36 - 51.

within the DPSP have been interpreted as such to be included within the right to life under Article 21.⁸

In addition to the Constitutional provisions, the Parliament has passed numerous supplementary human rights laws in accordance with International Human Rights instruments such as the *Prevention and Prohibition of Sexual Harassment Of Women At Workplace Act, 2013*, *Persons With Disabilities Act, 1995*, *The Prohibition Of Child Marriage Act, 2006* etc.⁹ The PHRA, however is the primary piece human rights legislation, amongst them all. It represents India's strongest affirmation of its commitment to human rights as key to the country's well-being, progress, and integrity.¹⁰ It aims to provide "*better protection of human rights in the country and matters connected with and incidental thereto*".¹¹ To accomplish this goal, the PHRA establishes two very distinct forums :-

1. The Human Rights Commissions, i.e. The National Human Rights Commission (NHRC)¹² at the Centre and the State Human Rights Commission(s) (SHRC)¹³ at the State level, and,
2. The HRC (s)¹⁴ - an enforcement machinery within the cadre of criminal courts, at the district level.

⁸ Devdatta Mukherjee, *Judicial Implementation of Directive Principles of State Policy: Critical Perspectives*, 1(1) IJLPP 14,15 (2014) http://docs.manupatra.in/newslines/articles/Upload/8CEA8CDA-BCBD-4D03-B8EF-8C3E8FFD21E4.1-b_Constitution.pdf.

⁹ NATIONAL HUMAN RIGHTS COMMISSION, A HANDBOOK ON INTERNATIONAL HUMAN RIGHTS CONVENTIONS 264-265 (NHRC, 2012), https://nhrc.nic.in/sites/default/files/A_Handbook_on_International_HR_Conventions.pdf.

¹⁰ NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2007-08 14 (May 27 2009), https://nhrc.nic.in/sites/default/files/NHRC-AR-ENG07-08_0.pdf.

¹¹ The Protection of Human Rights Act, 1993, Preamble, as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

¹² The Protection of Human Rights Act, 1993, § 3, as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

¹³ The Protection of Human Rights Act, 1993, § 21, as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

¹⁴ The Protection of Human Rights Act, 1993, § 30, as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

The two forums have been provided with very distinct functions within the Act. A perusal of the Act depicts that the Commission(s) have been accorded with duties manifold.¹⁵ The primary duty being to raise public awareness around human rights and to protect human rights by inquiring or investigating rights violations committed by public servants and ultimately recommending corrective measures to the concerned government.¹⁶ The HRC(s), on the other hand, have the sole responsibility of bringing to trial complaints involving “*offences arising from a violation of human rights*”.¹⁷ That is to say that whenever an offence is committed at the backdrop of a human rights violation (HRV), it can be tried before the HRC(s). The legislature established these courts because it believed it was critical to resolve such cases as soon as possible as they involved violations of human rights.¹⁸ Furthermore, designating district courts as HRC(s) aids in the decentralisation of the Human Rights Protection network by making access to justice a working reality for the people.

Regrettably, the failure of certain states to establish HRC(s), as well as the presence of a few inherent flaws within the Act, has become a major impediment in the functioning of the courts. The PHRA under Section 30, states that the HRC(s), shall try “*offences arising out of HRV*”. It however does not elaborate upon the meaning of the aforementioned phrase nor does it identify the offences which stem from a HRV. Thus creating a knotty situation for the judicial officers to comprehend.¹⁹

The issue at hand was first addressed by the NHRC in its annual report from 1996-97. The NHRC under the Chapter titled HRC(s) distinctively made a recommendation to the government to elaborate upon the ambiguity relating to the offences that could be tried by the HRC(s).²⁰ Yet again, the same was

¹⁵ The Protection of Human Rights Act, 1993, § 12, as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

¹⁶ *Ibid.*

¹⁷ *Supra* n.12.

¹⁸ K.Dhamodharan v. R.V.Narbabi, CRL.O.P.(MD).No.4529 (2006).

¹⁹ Tamilnadu Pazhankudi Makkal Sangam v. The State of Tamilnadu, 1997 MLJ (Cri) 655 Madras.

²⁰ NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 1996-97 57 (1997), <https://nhrc.nic.in/sites/default/files/Annual%20Report%201996-97.pdf>.

reiterated by the NHRC in its subsequent reports from 1998 -2007²¹ in the following words:-

*“A continuing impediment to the proper functioning of these Courts has, however, been the lack of clarity as to what offences, precisely, can be classified as human rights offences. The Commission has proposed a precise amendment to Section 30 of the Protection of Human Rights Act, 1993, but in the absence of any action being taken on that proposal, these Courts have not been able to adequately discharge the purpose for which they were designated.”*²²

Regrettably, due to the government's failure to implement its recommendations concerning the HRC(s), the HRC(s) are not mentioned in the NHRC's annual reports from 2007 to 2019. After a 13 year reticence, the NHRC's most recent annual report i.e. the 2019-2020 report, mentions the HRC(s). Wherein, it once again recommends to the government to lay down procedure as well as the offences and the appropriate punishments for the HRC(s).²³ The recommendation is currently under consideration by the Ministry of Home Affairs (MHA).²⁴

The present contribution thereby delves into the complexities of the issue and attempts to clarify it in light of the Hon'ble Madras High Court's (HC) interpretation and by pursuing an extensive study within the HRC(s) of Gujarat. In doing so, the author(s) divide the paper into five primary parts. The paper begins by setting the introduction and the focus for the study. The paper then examines how the Courts have applied their mind in interpreting the phrase i.e. "*offences arising out of HRV*". Taking cues from this, the authors investigate the categories of HRV complaints received by the NHRC in order to identify

²¹ *Ibid* 56; NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2001-2002 137 (2002); NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2002-2003 166 (2003); NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2003-2004 164 (2004); NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2010-2011 139 (2012).

²² NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2001-2002 137 (2002), <https://nhrc.nic.in/sites/default/files/Annual%20Report%202001-2002.pdf>.

²³ NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2019-2020 238 (2021), https://nhrc.nic.in/sites/default/files/AR_2019-2020_EN.pdf.

²⁴ *Ibid*.

corresponding offences within the Indian Penal Code, 1860 (the 'IPC') to such violations.

The paper thereafter, explores the HRC(s) of Gujarat to understand whether the omission to enlist the offences poses a hindrance in the functioning of the courts. The author(s) analyse the data sourced from the e-Courts website to determine the number of cases filed, outcome of the cases and the nature of the offences for which the cases were filed before the HRC(s). Aside from that, the author(s) truly believe that since the advocates represent the parties in court, their knowledge of the law is critical for the country's effective implementation of human rights. If the advocates who serve as a layman's first point of contact are unaware about the existence of HRC(s) or about the offences for which these courts are designed, the establishment of these courts is rendered useless. The authors therefore additionally conduct an empirical study amongst advocates selected at random ($n = 100$) practising in District and Sessions court of Gujarat on their understanding of the phrase "*offences arising out of violation of human rights*". To gather the information the author(s) used a Likert scale questionnaire followed by an open-ended question segment based upon the respondent's answer. The final section of the paper contains the authors' concluding remarks and suggestions for improvement.

II. Limitation(s) of the Study

- 1) To identify the categories of HRV, the authors limit their study to human rights complaints filed before the NHRC only.
- 2) To identify the offences that may arise from HRV the authors limit their study to the IPC only.
- 3) To examine the understanding of the phrase "*offences arising out of HRV*", amongst the advocates practising in District and Sessions courts, the authors limit the survey to four districts only: *Ahmedabad, Gandhinagar, Surat, and Vadodara*.

A. Human Rights Courts - Protection of Human Rights Act, 1993.

The PHRA spreads across eight (8) chapters and 43 sections. The NHRC/SHRC(s) are discussed in 34 of the 43 sections of the PHRA, which detail

their composition, functions, powers, and finances. Whereas only three sections of the PHRA, deal with HRC(s).

HRC(s)

Section 30 of the PHRA states that “*each State Government (SG), in consultation with the Chief Justice of their respective High Court, may designate the Court of Sessions in each district of the State as a HRC*”.²⁵ The goal of establishing such courts is to speed up the prosecution for the “*offences arising out of HRV*”.²⁶ At present the following 23 states and 06 Union Territories (UT) have designated HRC(s) in accordance with Section 30, PHRA. (see fig.1)



Fig. No. 1: States and UT(s) with Human Right Court(s)

(source: primary)²⁷

Special Public Prosecutor (SPP)

Because the HRC(s) is a Court of Sessions which requires a trial to be conducted by the Public Prosecutor (PP), Section 31 of the PHRA requires the State

²⁵ *Supra* n.12.

²⁶ *Ibid.*

²⁷ Data retrieved through RTI Application No. NHRCM/R/E/22/00927 dated 20.11.2022.

Government (SG) to either designate a PP or appoint an experienced advocate of at least seven years as a SPP.²⁸

Special Investigation Team (SIT)

Furthermore, under Section 39, PHRA the SG has the power to form one or more SIT(s) to conduct investigation and prosecution of offences brought before the HRC(s).²⁹

Miscellaneous Provisions

Besides this, the PHRA confers powers to the Central Government (CG) and the SG to make rules to carry out the provisions under the PHRA,³⁰ which axiomatically apply to the HRC(s). However, to date barring the state of Karnataka³¹, no rules of practice for the HRC(s) have been formulated by either the CG or the SG(s). The authors opine that the Karnataka State Government's rules can serve as a foundation for the Central Government to develop similar rules with necessary modifications for every HRC(s). This can aid in achieving a sense of uniformity among the HRC(s), which at present follow different procedural requirements³².

A quick read of the rules enlightens us about the functioning of the HRC(s), and we discover the following:

- 1) How a complaint can be filed before a HRC,
- 2) Who can file and against whom can such a complaint be filed,
- 2) The Procedure followed by the court on taking cognizance of the complaint,

²⁸ The Protection of Human Rights Act, 1993, § 31, as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

²⁹ The Protection of Human Rights Act, 1993, § 37, as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

³⁰ The Protection of Human Rights Act, 1993, § 40-41, as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

³¹ The Karnataka Government in 2006 exercised powers conferred by § 41 of the PHRA, 1993 by Notification No. Law 11 HRC 2006 (Part), Bangalore, dated 25.01.2006, passed the "Karnataka State Human Rights Courts Rules, 2006", Data retrieved through RTI application no. dated 23.01.2023.

³² The Registrar v. The State of Gujarat, Cr.MA No. 7874 (2012); also see Rasiklal M. Gangani v. Government of Goa through Chief Secretary, W.P.No.537 (2003).

3) The Nature of the trial followed by the court.

B. Karnataka State Human Rights Courts Rules, 2006

According to the rules, a victim of a HRV has the right to file a private complaint against a public servant who has committed or aided in the commission of such an offence.³³ The complaint can be either filed by him himself, or he can authorise an NGO, a legal representative, or a public person to do so on affidavit.³⁴ Following that, the court may either conduct an inquiry or authorise a police officer with a rank no lower than Superintendent of Police to conduct an investigation.³⁵ The investigation should be completed within 15 days, with the possibility of further extension.³⁶ The rules further state that the nature of the trial before the HRC(s) should be by the provisions of the Code of Criminal Procedure, 1973 (CrPC) governing sessions trials.³⁷ However, to continue with the trial, the court must seek appropriate sanction in accordance with Section 197, CrPC based on the findings of the investigation/inquiry.³⁸ The said request must be disposed of within 30 days of receiving communication from the Court.³⁹ Once the sanction has been obtained from the appropriate authority, the trial should be conducted daily and should be prioritised over any other trial that ensued against the accused⁴⁰

The rules, however, remain silent as to the offences which can be tried by the HRC(s) or on elaborating on the meaning of the phrase "*offences arising out of HRV*". The rules simply state that -

"The Court shall try all offences of a violation of human rights and, while trying an offence of violation of human rights, may charge and try and accused for any other offence which may

³³ Karnataka State Human Rights Courts Rules, 2006, § 6(1).

³⁴ *Ibid.*

³⁵ Karnataka State Human Rights Courts Rules, 2006, § 6(2).

³⁶ *Ibid.*

³⁷ Karnataka State Human Rights Courts Rules, 2006, § 6(6).

³⁸ Karnataka State Human Rights Courts Rules, 2006, § 6(4).

³⁹ *Ibid.*

⁴⁰ Karnataka State Human Rights Courts Rules, 2006, § 7.

have been committed by the accused in the course of the same transaction in one trial for every such offence."⁴¹

III. The Quandary over the Offences Triable By the HRC(S)

The PHRA empowers each SG to establish HRC(s) for the conducting trial of cases wherein an offence in furtherance of an HRV has been committed.⁴² On a cursory reading of the provision, the language used by the drafters appears straightforward, implying that the HRC(s) can prosecute any "offence" arising from an HRV. However, unlike the other special acts, PHRA does not expressly list the offences that the special court may try. This impediment in the functioning of the HRC(s) was first highlighted in 1997, when the first Human Rights complaint was filed before the HRC of Erode, Tamil Nadu.⁴³ According to the petition, the Special Task Force (STF), which was formed to apprehend the sandalwood smuggler Veerappan, was torturing and illegally detaining the tribals in the area, thereby violating their human rights.⁴⁴ However, due to a lack of clarity on the jurisdiction and the precise nature of offences, the complaint could not be tried by the court and therefore the petition was returned by the presiding officer of the said HRC.⁴⁵

To bring attention to the issue, the People's Union for Civil Liberties (PUCL) wrote a letter to Justice V.R Krishna Iyer (former judge of the Supreme Court of India), outlining the ambiguities regarding the jurisdiction and procedures to be followed by HRC(s).⁴⁶ In response, Justice Iyer, forwarded the letter to the Madras HC's then-Chief Justice, Justice K.A Swamy, requesting that a bench be formed to consider the viability of the HRC(s).⁴⁷

⁴¹ Karnataka State Human Rights Courts Rules, 2006, § 3-4.

⁴² *Supra* n. 12.

⁴³ *Supra* n. 17.

⁴⁴ *Ibid*, para 7.

⁴⁵ *Ibid*, para 7.

⁴⁶ *Ibid*, para 9.

⁴⁷ *Ibid*, para 10.

A. Hon'ble Madras High Court on the Scope of HRC(s).

As a result, the Madras HC took on record a *suo moto* Criminal Revision petition under Article 227 of the Indian Constitution.⁴⁸ A communication in this regard was also forwarded to the NHRC and the Attorney General of India to place their views upon the issues framed by the court.⁴⁹ The petition addressed a total of 25 issues concerning the HRC(s). Out of which two issues expressly pertained to the phrase “*offences arising out of violation of human rights*”.⁵⁰ The said questions/issues were as follows:-

“(1) Whether it can - on the face of the statutory provisions under Sec.2(1)(d) defining ‘Human Rights’ and Sec.30 of P.H.R.A. dealing with Constitution of HRC(s) for trial of offences, arising out of HRV - be stated that there is no clear guidance in P.H.R.A. as to what can be regarded as ‘offences arising out of violation of Human Rights’? , and

(2) Whether there is any need or desirability to amend P.H.R.A. and specify the offences, arising out of HRV, which can be tried by HRC(s) ?”⁵¹

Replying to the aforementioned issues, the court opined that due to the presence of clear indicators already present within the provision there was no requirement of amending the provision.⁵² It ruled that while the PHRA does not specifically enumerate the human rights offences, it does give us a hint as to what ‘offences’ could be construed as those springing from a HRV.⁵³ To feed into the soul of the phrase one must first appreciate the meaning of the two definite indicators i.e. ‘*offence*’ and ‘*human right*’ and a combination of the two would result in a practical understanding of the phrase.⁵⁴

⁴⁸ Tamil Nadu Pazhankudi Makkal Sangam v. Government of T.N, Crl.R.C.No.868 (1996).

⁴⁹ *Supra* n.18, 57.

⁵⁰ NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 1997-98 131 (1998), <https://nhrc.nic.in/sites/default/files/Annual%20Report%201997-98.pdf>.

⁵¹ *Supra* n.17.

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ *Ibid.*

An “offence” is –

*“any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 (1 of 1871)”.*⁵⁵

“Human Rights” are –

*“the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India”.*⁵⁶

“An offence arising out of HRV” would thereby mean –

an act or omission, punishable by law for the time being in force, which emanates from the rights relating to life, liberty, equality, and dignity of an individual and nothing else.

However, the court additionally stated that–

*“It is only such violations of ‘Human Rights’ as embodied in International Covenants, treatise etc., either incorporated etc., either incorporated in the Constitution, as justiciable right or incorporated or transformed in municipal law, at the instance of the instrumentalities of the State that get attracted the jurisdiction of the High Court under Art.226 or the Supreme Court under Art.32 of the Constitution. The violation of such rights, if occurred at the instance of private individuals, there is no other go for the affected individual, except to seek his remedies under the ordinary law of the land”.*⁵⁷

By doing so the Hon’ble Court restricted the definition of the phrase to “public servants”. Thereby defining “offences arising out of HRV” to mean –

⁵⁵ Code of Criminal Procedure, 1973, § 2(n).

⁵⁶ The Protection of Human Rights Act, 1993, § 2(1)(d), as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

⁵⁷ *Supra* n. 17.

*“an act or omission on the part of the instrumentalities of the State, that is to say, public servants, punishable by law for the time being in force, as relatable to life, liberty, equality and dignity of the individuals and nothing else”.*⁵⁸

The authors believe that the primary reason for doing so could be to adhere to the spirit of the law i.e. the PHRA. Using the NHRC/SHRC as a model, one can clearly note that the commissions are only authorized to hear complaints filed against public servants and therefore, by following a functional interpretation of the PHRA the same could be applied to the HRC(s). However, the author(s) opine that in order to avoid confusion, Section 30 should expressly state the limitation, as is done in Section 12 of the PHRA, 1993.⁵⁹

IV. Identifying the Offences that Arise Out of Violation of Human Rights

A conjoined reading of section 2(1)(d), PHRA, 1993 and Section 30, PHRA, 1993 helps to blur the ambiguity surrounding the phrase *"offences arising out of HRV"*, nevertheless it cannot be said that the anomaly within the section is completely removed. The authors note that the phrase is secondary in nature. To identify the ‘offences’, one has to look at the various categories of HRV(s). Only on enlisting the said HRV(s), can one identify the complementary offences punishable by law for the time being in force. It, therefore, becomes bifurcated. First, there must be a rights violation, and second, that violation must give rise to an ‘offence’.

Keeping the definition of the phrase as laid down by the Madras HC⁶⁰, as a point of reference, the authors categorize the HRV complaints filed before the NHRC through a secondary analysis of the annual reports of the NHRC. The authors subsequently seek guidance from the IPC to ascertain which HRV the HRC(s) may speedily prosecute as *"offences arising out HRV"*. The rationale behind selecting the complaints filed with the NHRC is to keep the goal of only investigating HRV committed by public servants.

⁵⁸ *Ibid.*

⁵⁹ The Protection of Human Rights Act, 1993, § 12, as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

⁶⁰ *Supra* n. 17.

A. Human Rights Violation Complaints Filed before the NHRC

The NHRC publishes its annual report highlighting the number of complaints received by the Commission for the respective calendar year, the investigations made by the commission, and its recommendations to the government.⁶¹ In doing so, the commission categorises the complaints into different groups according to the nature of the human rights such as : Civil and Political Rights, Right to Health, Right to Food, Right to Education, Rights of Scheduled Tribes, Scheduled Castes and Other Vulnerable Groups, Rights of Women and Children, Rights of Elderly Persons, and Rights of Persons with Disabilities.⁶² It then reports some of the cases received as illustrations during that year under each heading.⁶³ After analysing the illustrative cases depicted in the NHRC's Annual Reports from 2014 to 2020, the authors identified the following HRV(See Table No. 1) :-

Table No.1: Complaints for HRV Filed Before the NHRC

(Source: Secondary Data Analysis of the NHRC Annual Reports)

Children	Exploitation Of Children
	Child Labour
	Child Marriage
	Child Prostitution
	Child Trafficking
	Custodial Violence In Juvenile Homes
	Harassment Of Child
	Educational Institutions Resorting To Physical Punishment
	Child Sex Slavery
	Environment

⁶¹The Protection of Human Rights Act, 1993, § 20, as amended vide the Protection of Human Rights (Amendment) Act, 2019 No. 19 of 2019.

⁶²NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2015-2016 35-216; NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2016-2017 38-140; NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2017-2018 43-141; NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2018-2019 34-153; NATIONAL HUMAN RIGHTS COMMISSION, ANNUAL REPORT 2019-2020 39-199, <https://nhrc.nic.in/publications/annual-reports>.

⁶³ *Ibid.*

	<p>Environmental Pollution Environmental Hazard Negligence on Part Of Public Officials</p>
Health	<p>Medical Negligence Medical Misconduct Denial Of Adequate Healthcare Violation Of The Legal Rights Of Physically And Mentally Challenged</p>
Labour	<p>Bonded Labour Forced Labour Exploitation Of Labour Hazardous Employment Slavery</p>
Police	<p>Custodial Death In Police Custody Unlawful Arrest/ Detention Negligence By Police Officials Torture In Police Custody False Implications Illegal Gratification Rape In Police Custody Police's Failure To Take Lawful Action Fake Encounter By Police Sexual Harassment Undue And Excessive Use Of Force Non Registration Of FIR</p>
Prison	<p>Custodial Death To Prison Custodial Rape Harassment Of Prisoners Negligence In Taking Lawful Action Custodial Torture In Judicial Custody Sexual Harassment Deprivation Of Legal Aid</p>

SC/ST/ Minorities	Caste Discrimination Sexual Assault Manual Scavenging Physical And Verbal Harassment Torture Forced Labour
Women	Exploitation of Women Sexual Assault Forceful Abortion Sexual Harassment At Workplace Outraging The Modesty of A Women Non Registration of FIR Discrimination Against Women Immoral Trafficking
Other(s)	Non Payment of Pensionary Benefits Abuse By Educational Authorities Electrocution Cases - Negligence By Public Authorities Misuse of Public Funds

An examination of the complaints filed with the NHRC reveals that HRV were committed by state agents such as police, health professionals, educational institutions, government department, and so on. The HRV were committed either directly by the state through the active participation of its agents or indirectly by the state's failure to prevent or respond to such violations. It is to be further noted that complaints for rights violations before the NHRC arose from both, civil and political rights as well as economic and social rights.

A perusal of the IPC discloses that not all HRV have a corresponding offence within the code. However, direct violations involving physical abuse, such as "custodial crimes" and "crimes involving abuse of power," can be easily traced within the IPC. For instance, Chapter 16 of the IPC addresses penalties for any type of bodily harm against a person, from a minor assault to the infliction of death. Specific sections of the IPC also include offences committed as a result of power abuse, such as malicious prosecution, intimidation, unlawful arrest, and so on. Following this line of reasoning, the writers list some of the potential "offences" which could result from HRV. The list, however, is not exhaustive

both within the IPC and in relation to the other Special Acts (see Table no. 2 below).

Table No. 2: Human Rights Offences

(Source: Secondary Data Analysis of the NHRC Annual Reports)

HRV	Description of the Offence (Indian Penal Code, 1860)
Assault/ Excessive Use of Force	350 ⁶⁴ , 351 ⁶⁵ , 354 ⁶⁶ , 354B ⁶⁷ , 354C ⁶⁸ , 355 ⁶⁹
Corruption	403 ⁷⁰ , 409 ⁷¹
Custodial Death	300 ⁷²
Custodial Rape/ Rape/ Gang Rape	375 ⁷³ , 376 C ⁷⁴ , 376D ⁷⁵ , 377 ⁷⁶
Forced Labour	374 ⁷⁷
Human Trafficking	370 ⁷⁸
Intimidation	383, ⁷⁹ 389, ⁸⁰ 503 ⁸¹
Malicious Prosecution/ False Implication	166 ⁸² , 167 ⁸³ , 211 ⁸⁴ , 219 ⁸⁵

⁶⁴ Criminal Force.

⁶⁵ Assault.

⁶⁶ Assault or criminal force to woman with intent to outrage her modesty.

⁶⁷ Assault or use of criminal force to woman with intent to disrobe.

⁶⁸ Voyeurism.

⁶⁹ Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.

⁷⁰ Dishonest Misappropriation of Property.

⁷¹ Criminal Breach of Trust by Public Servant, or by banker, merchant, or agent.

⁷² Murder.

⁷³ Rape.

⁷⁴ Sexual Intercourse by a Person in authority.

⁷⁵ Gang Rape.

⁷⁶ Unnatural offences.

⁷⁷ Unlawful compulsory labour.

⁷⁸ Trafficking of Persons.

⁷⁹ Extortion.

⁸⁰ Putting person in fear or accusation of offence, in order to commit extortion .

⁸¹ Criminal Intimidation.

⁸² Public servant disobeying law, with intent to cause injury to any person.

⁸³ Public servant framing an incorrect document with intent to cause injury.

⁸⁴ False charge of offence made with intent to injure.

⁸⁵ Public servant in judicial proceeding corruptly making report, etc., contrary to law.

Negligence/ Medical Negligence	304A ⁸⁶ , 166B ⁸⁷
Non -Registration of FIR	166A ⁸⁸
Sexual Harassment	354A ⁸⁹ ,
Torture	307 ⁹⁰ , 321 ⁹¹ , 322 ⁹² , 324 ⁹³ , 326 ⁹⁴ , 326A ⁹⁵ , 330 ⁹⁶ , 331 ⁹⁷
Unlawful Arrest/ Detention	220 ⁹⁸ , 340 ⁹⁹ , 345 ¹⁰⁰ , 348 ¹⁰¹

B. Status of Human Rights Courts in the State of Gujarat

In exercise of the powers conferred by Section 30 of the PHRA the Government of Gujarat in concurrence with the Chief Justice of the High Court of Gujarat, specified all the Court of Sessions for every district within the State as an HRC by *Notification no. GK/2002/16/SPC/ 1094/VIP-226/D dated 24th May, 2002.*¹⁰²

C. Cases Filed Before the HRC(s) of Gujarat

According to the data depicted in Fig. No. 2 below, a total of 110 cases have been filed before the HRC(s) of Gujarat from 2002 to 2022. The said 110 cases have been filed in only 08 (eight) districts i.e. *Bhavnagar, Gandhinagar, Gir Somnath, Jamnagar, Junagadh, Morbi, Rajkot and Surat* out of the 32 districts (see Fig. No.

⁸⁶ Causing Death by Negligence.

⁸⁷ Punishment for non-treatment of victim.

⁸⁸ Public servant disobeying direction under law.

⁸⁹ Sexual Harassment.

⁹⁰ Attempt to Murder.

⁹¹ Voluntarily Causing Hurt.

⁹² Voluntarily Causing Grievous Hurt.

⁹³ Voluntarily Causing Hurt by dangerous weapons or means.

⁹⁴ Voluntarily Causing Grievous Hurt by dangerous weapons or means.

⁹⁵ Voluntarily Causing Grievous Hurt by use of acid, etc.

⁹⁶ Voluntarily causing hurt to extort confession, or to compel restoration of property.

⁹⁷ Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

⁹⁸ Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.

⁹⁹ Wrongful Confinement.

¹⁰⁰ Wrongful confinement of person for whose liberation writ has been issued.

¹⁰¹ Wrongful confinement to extort confession, or compel restoration of property.

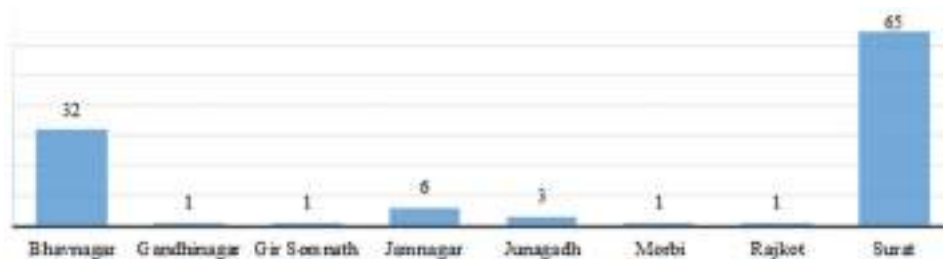
¹⁰² Data Retrieved through RTI application No. RTI/102021/55-A/D, dated 29-10-2021.

2 below). Inferring that the HRC(s) of the other 24 districts have not been operating at all. The yearly statistics of the HRC(s) in Fig. 3 below further depict that no cases were received by the HRC(s) in any of the districts from 2002 to 2010. The number of cases filed however increased from 2012 to 2016 (except 2015), with the highest number of cases filed in 2013 and 2014, at 25 and 28, respectively (see Fig. No. 3 below). According to data from the Gujarat SHRC, the commission has received a total of 47340 complaints as of January 2023, 960 of which are related to alleged cases of custodial deaths.¹⁰³ The authors note that in light of the significant number of complaints regarding custodial deaths, which are legitimately triable by the HRC(s) as an "offence arising out of violation of human rights," the miniscule number of cases that have been brought before the HRC(s) looks ambiguous. The aforementioned concern is further supported by a comparison between the number of complaints submitted to the NHRC each year from the State of Gujarat and the number of cases that are brought before the HRC(s) of Gujarat (see Fig. No. 4 below).

As a result, the authors consider it necessary to delve deeper into the issue to truly understand as to why fewer complaints are filed before HRC(s). To do this, we must assess the 110 cases that have been presented before the HRC(s).

Fig. No. 2: Total No. of Cases Filed Before the HRC(s) of Gujarat from 2002 -2022

(Source: Secondary Analysis of the Data Sourced from the E- District Courts Website)



¹⁰³ see Gujarat State Human Rights Commission, Statistics. <https://gshrc.gujarat.gov.in/statistics.htm>.

Fig. No. 3: Cases Filed Before the HRC(s) of Gujarat per year from 2002 - 2022

(Source: Secondary Analysis of the Data Sourced from the E- District Courts Website)

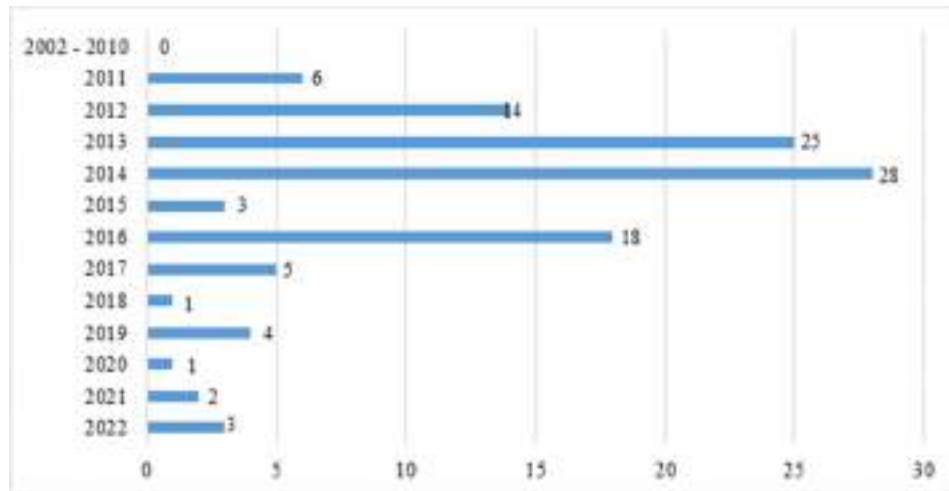


Fig. No. 4: Comparison Between the No. of Cases Filed Before the HRC(s) Gujarat and the NHRC from Gujarat from 2011 -2019

(Source: Secondary Analysis of the Data Sourced from the E- District Courts Website and NHRC Annual Reports)



D. Status of the Cases Filed Before the Human Rights Courts of Gujarat

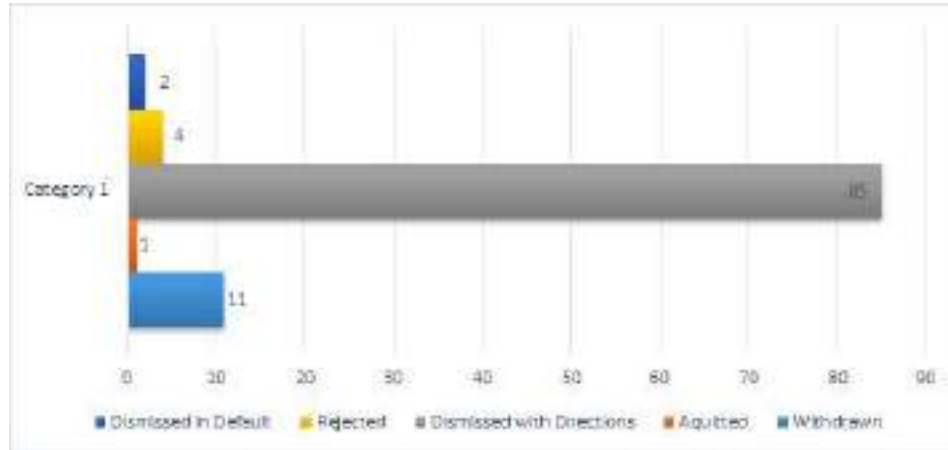
Fig. No. 5: Outcome of the Cases Filed Before the HRC(s) of Gujarat per year from 2002 -2022

(Source: Secondary Analysis of the Data sourced from the E- District Courts Website)



Fig. No. 6: Nature of Disposal of the Cases Disposed of by the HRC(s) of Gujarat from 2002 -2022

(Source: Secondary Analysis of the Data Sourced from the E- District Courts Website)



When it comes to the status of the complaints received by the HRC(s), out of the 110 cases, presently 103 cases stay disposed of, and 07 (seven) pending before the HRC(s) (see Fig. No. 5 above). The authors further note that only 01 (one) out of the 103 cases resulted in an acquittal, while the other 102 were decided solely at the preliminary stage without a complete hearing. (see Fig. No. 6 above). As a result, no convictions have been obtained to date. The nature of disposal of the 102 cases is classified into four major categories (see Fig. No. 6 above): -

- Dismissed in default,

- Rejected,
- Dismissed with directions, and
- Withdrawn.

02 (two) complaints filed with the HRC were dismissed in default, which means that the complaint was dismissed because the complainant failed to appear before the court despite repeated notices to do so (see Fig. 6 above). 04 (four) complaints filed with the HRC(s) were outrightly rejected. The court additionally stated that a direct complaint to the HRC(s) that bypasses the authority of the SHRC or the NHRC is not maintainable, as these commissions have primary authority to investigate HRV. The remaining 02 (two) complaints were rejected because the prosecution failed to obtain sanction for prosecution from the relevant authorities as required by Section 19 of the Prevention of Corruption Act, 1988 (see Fig. 6 above). Whereas the complainants in 11 complaints refused to pursue the complaint due to compromise or settlement between the parties through mediation (see Fig. 6 above).

Most of the cases i.e. 85 however were dismissed with directions by the court (see Fig. No. 6 above). The Courts in the 85 cases ruled out in their respective orders that the concerned HRC did not have the original jurisdiction to entertain the complaint and as a result directed the complainants to approach the appropriate forum. The decision for doing so was based upon the concurring judgements of the Hon'ble Bombay High Court and Madras High Court in the case of, *Rasiklal M. Gangani v. Government of Goa through Chief Secretary*¹⁰⁴ and *K. Dhamodharan vs R.V.Narbabi*¹⁰⁵ respectively. The Hon'ble HC(s) observed that because the PHRA is silent regarding who may take cognizance of a complaint for a human rights offence, the rules within the CrPC get automatically attracted.¹⁰⁶ As a result a Sessions Judge who is barred from taking direct cognizance of a complaint in accordance with the Section 193, CrPC would not be able to take direct cognizance of a human rights complaint put before it (HRC(s) being the Court of Sessions).¹⁰⁷ In accordance with Section 209 CrPC,

¹⁰⁴ *Rasiklal M. Gangani v. Government of Goa through Chief Secretary*, W.P No. 541 of 2003.

¹⁰⁵ *Supra* n.16.

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

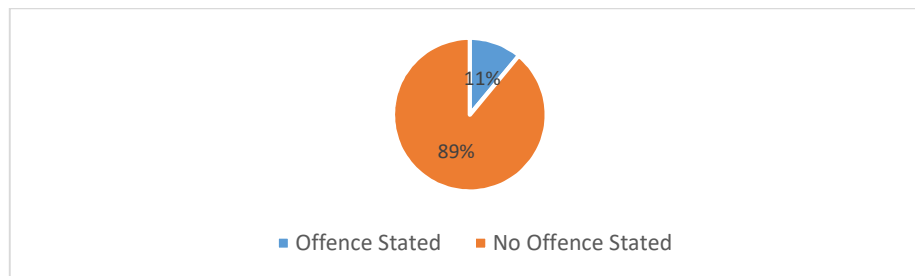
the complaint must therefore be first presented to a magistrate, who after taking cognizance can then commit the same to the Court of Sessions i.e. the HRC for trial.¹⁰⁸

The author(s) observe that *The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989* and *The Protection of Children from Sexual Offences Act, 2012* are two special Acts similar to the PHRA, which provide for the designating the Court of Sessions in each district as a special court to try the offences under the respective act(s).¹⁰⁹ However, unlike the PHRA the aforementioned Act(s) expressly empower the special judge to take direct cognizance of the offences under the respective Act(s).¹¹⁰ The author(s) observe that as a result of the refusal to grant the HRC(s) original jurisdiction, the fewer complaints that do manage to reach the HRC(s) are also dismissed. As a result, it is a major impediment to the HRC 's ability to provide an effective remedy to victims of HRV.

E. Identifying the “Offences” From the Complaints Instituted Before the HRC(s) of Gujarat

Fig. No. 7: Cases in which the Offence was Stated in the Complaint Before the HRC(s)

(Source: Secondary Analysis of the Data Sourced from the E- District Courts Website)



¹⁰⁸ *Supra* n. 16.

¹⁰⁹ The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, § 14; The Protection of Children from Sexual Offences Act, 2012, § 28.

¹¹⁰ The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, § 14; The Protection of Children from Sexual Offences Act, 2012, § 33.

The disclosure of the nature of an offence or the crime is one of the main requirements at the pre-trial stage. Unless and until an offence is disclosed, the trial process does not commence.¹¹¹ On analysing the complaints received by the HRC(s) of Gujarat, the authors disclose that only a mere 11% of the cases i.e. out of the 110 complaints only 12 complaints, clearly identified the nature of the offence which was committed against the background of the HRV (see Fig. No. 7 above). The author(s) thereby opine that even if the power to take direct cognizance as court of original jurisdiction is bestowed to the HRC(s), the failure to identify and attach an offence would be a continuous stumbling block for the HRC(s). The authors further observe that the failure to attach an offence within the complaints clearly indicates that the applicants struggled to identify the offence for a particular HRV. Another possibility is that the absence of the offences within the PHRA misled the applicants about the HRC's authority and purpose. As a result, they mistook the HRC for a public law court, having powers similar to those of the High Court and Supreme Court under Articles 226 and 32, respectively.

Nonetheless, the writers made note of the complaints that listed the specifics of the offence and used that information to compile a list of the offences (see Table No. 3 below). The complaints cited three core statutes: *the Indian Penal Code, 1860, the Transplantation of Human Organs Act, 1994, and the Prevention of Corruption Act, 1988.*

Table No. 3: Offences for which complaints were filed before the HRC(s) of Gujarat

(Source: Secondary Analysis of the Data Sourced from the E- District Courts Website)

Sections	Description of the Offence
Indian Penal Code, 1860	
Section 114	Abettor present when offence is committed
Section 116	Abetment of offence punishable with imprisonment—if offence be not committed
Section 120	Concealing design to commit offence punishable with imprisonment
Section 120A	Criminal Conspiracy

¹¹¹ Inference drawn from Section 226, Code of Criminal Procedure, 1973.

Section 142	Being member of unlawful assembly
Section 146	Rioting
Section 149	Every member of unlawful assembly guilty of offence committed in prosecution of common object
Section 166	Public servant disobeying law, with intent to cause injury to any person
Section 166 A	Public servant disobeying direction under law
Section 321	Voluntarily causing hurt
Section 340	Wrongful confinement
Section 346	Wrongful confinement in secret
Section 350	Criminal force
Section 351	Assault
Section 354	Assault of criminal force to woman with intent to outrage her modesty
Section 357	Assault or criminal force in attempt wrongfully to confine a person
Section 375	Rape
Section 376B	Sexual intercourse by husband upon his wife during separation
Section 377	Unnatural Offences
Section 435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees
Section 440	House-trespass
Section 441	Criminal trespass
Section 503	Criminal intimidation
Section 504	Intentional insult with intent to provoke breach of the peace
Transplantation of Human Organs Act, 1994	
Section 18	Punishment for removal of human organ without authority
Section 19	Punishment for commercial dealings in human organs.
Section 19 A	Punishment for illegal dealings in human tissues.
Prevention of Corruption Act, 1988	
Section 7	Public servant taking gratification other than legal remuneration in respect of an official act
Section 8	Taking gratification, in order, by corrupt or illegal means, to influence public servant
Section 9	Taking gratification, for exercise of personal influence with public servant.
Section 11	Public servant obtaining valuable thing, without consideration from person concerned in proceeding or business transacted by such public servant.
Section 13	Criminal misconduct by a public servant.

V. Findings of the Survey

The study was conducted amongst the advocates practising in the District and Sessions Courts of Gujarat. Accordingly, the following objectives were framed for the study: -

- i. To examine the awareness amongst the advocates about the existence of the HRC within their district, and
- ii. To determine their understanding of the expressions "*Human Rights*" and "*Offences arising from HRV*".

The data for the study was collected through a survey using a mixed scale questionnaire (Dichotomous and Likert scale). Wherein the Likert Scale questions were further followed by an open-ended question segment based on the respondent's response.

The information was gathered from four districts: *Ahmedabad, Gandhinagar, Vadodara, and Surat*. The questionnaire for the survey was distributed manually amongst 100 respondents. The demographics of the respondents is shown in Fig. No. 8. The data collected was examined using frequency analysis with the SPSS software (version 29.0.1.0(171)). The responses of the respondents to the questions at the frequencies are shown below from Fig No. 9 and Fig. No. 10 using clustered bar graphs.

Fig. No. 8: Respondents' Demographics

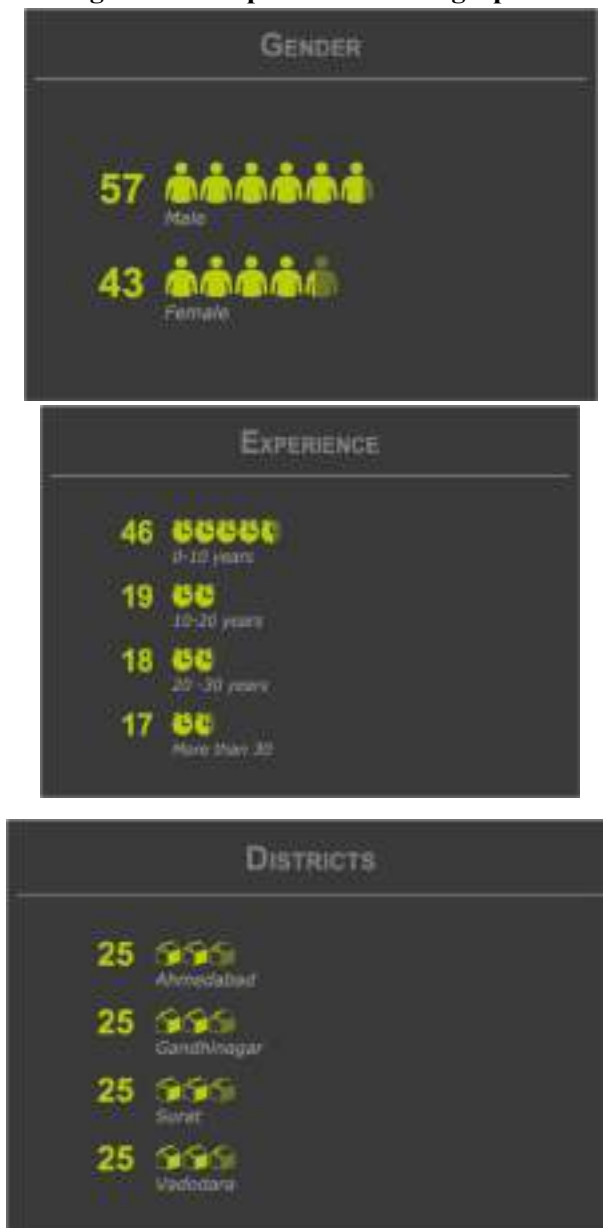


Fig. No. 9: Source (Primary, Survey Data)

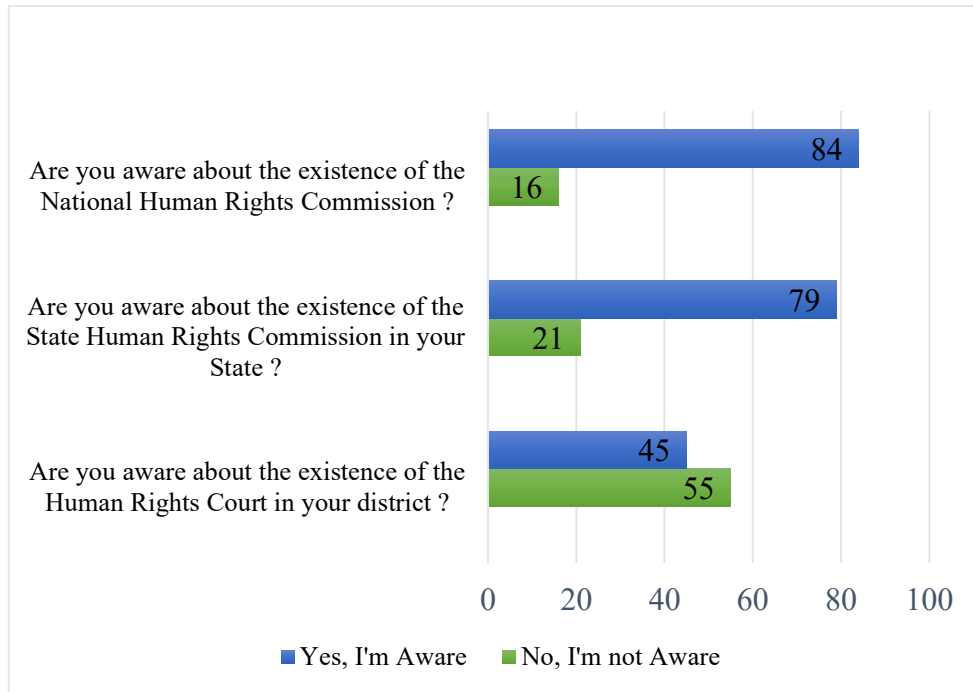


Fig. No. 10: Source (Primary, Survey Data)

The survey questions are divided into two segments, each with three questions. The first segment describes the advocates' knowledge about the existence of three key institutions, namely the NHRC, the SHRC(s), and the HRC(s), which cater to the protection of human rights in the country. The authors opine that advocates are the link between the common man and the judiciary. And therefore, as an officer of the court every advocate must be aware of all the remedies that are available to a victim of rights violation.

The data depicts that 84% and 79% of total respondents (n= 100), were aware about the existence of the NHRC and the SHRC respectively (see Figure No. 9 above). On the other hand, a quick second glance of the data reveals that merely 45% of the total respondents (n= 100), were aware of the existence of an HRC in their district (see Fig. No. 9 above). It can therefore be concluded that the awareness amongst the advocates about the existence of the HRC(s) is extremely low. This is particularly unfortunate because, unlike human rights commissions, the HRC is the only institution with full adjudicatory powers and the ability to issue a binding judgement.

The second segment of the survey focuses on the advocates' knowledge about the PHRA and their understanding of the phrases "Human Right" and "Offences arising from HRV", used within the PHRA. The authors opine that to file a complaint before the HRC one is required to know about the nature of the HRV as well as the nature of the offence committed against his or her client.

The data depicts that 51% of total respondents (n= 100), were *moderately familiar* with the PHRA and merely 9% respondents were completely unfamiliar with the PHRA (see Fig. No. 10 above). However, when questioned on their understanding of the expression "Human Rights", a majority of the respondents i.e. 46% of the total respondents (n= 100) said that they were *not at all familiar* with the definition of "Human Rights" as laid down within the PHRA (see Fig. No. 10 above). Similarly, most of the respondents i.e. 49 % of the respondents (n= 100), said that they were not at all familiar with the offences that can be said to arise from HRV (see Fig. No. 10 above). In fact, those who were to some extent familiar (24% - slightly familiar, 23% - moderately familiar and 4 % - extremely familiar) with the phrase, were asked to enlist at least 4 (four) offences that can be said to arise from HRV (see Fig. No. 10 above). Wherein out of the 51 respondents only 2 could list the offences. The two respondents enlisted the offence of *medical negligence, rape, and murder* within the IPC as those arising

out of HRV. The authors conclude that, the advocates practising in the District and Sessions Courts of Gujarat were not at all familiar with the definition of human rights as well as the offences which could be tried by the HRC(s). The fact that most of the advocates were unaware of the 'offences' triable by the HRC(s) indicates a significant hindrance in the HRC's functioning.

VI. Conclusion and Suggestions

The goal of enacting the PHRA was to offer the people of the country with a stronger and a decentralized human rights protection system. The act directs the respective governments to establish two independent institutions i.e. a national and the state commissions to that end. Furthermore, the State Government(s) are obligated to designate the Court of Sessions within each district of a state as HRC(s) to expedite the prosecution of HRV-related offences. The concept of HRC(s) is remarkable given the numerous instances of HRV that one hears about on a regular basis. An offence committed in the background of the violations tends to increase the severity of the breach. As a result, such an incident must be duly investigated and the perpetrator be brought to justice. The proper functioning of the HRC(s), which belong to the cadre of criminal courts gains importance. Additionally, the fact that the HRC(s) are to be set up within every district helps in accessing the courts.

At the end of the study on the HRC(s) of Gujarat, the author(s) however conclude that though novel in approach, a few hurdles continue to impede the aim of “speedy justice” by the HRC(s).

- i. To begin, the authors observed that the premises of the District and Sessions Courts fail to put up a sign board communicating as to which court is designated as an HRC(s). As a result, it is obvious that a common person or practising lawyer would be unaware of the Court of Session's designation as an HRC.
- ii. Furthermore, the lack of knowledge around the offences relating to HRV and the procedure to be followed by the HRC renders the notion of decentralization ineffective in practice. This additionally leads to the filing of frivolous complaints outside of the special court's jurisdiction. Resulting in wasting of both the court's time as well as the victim's in his/her pursuit of justice.

- iii. The Act directs for designating the Court of Sessions as an HRC(s). The fact that HRC(s) are not separately established puts an additional burden upon the Courts of Sessions who already bear the burden of cases waiting on their docket. Once again, admonishing the right to a speedy trial.

The author(s) find it regrettable that, even after 30 years of enactment of the PHRA the HRC(s) have not yet taken of as expected. This is more astonishing due to fact that the NHRC has itself repeatedly urged for modifications to the PHRA. However, the same have not been implemented. Resulting in the deplorable functioning of the HRC(s).

The following are the suggestions put forth by the author(s) for the better implementation of provisions relating to the HRC(s):-

- i. Section 30, PHRA should amended to specify the powers and function of HRC(s). The CG should further enact the rules governing the functioning of the courts.
- ii. Section 30, PHRA should be amended to replace the word “designate” by “establish”, thereby directing the SG to establish independent HRC(s) to exclusively deal with HRV– related offences.
- iii. The PHRA should be amended to include a list stating the nature of the offences and the punishments. The PHRA should also define the expression “*Offences arising out of Human Rights Violation*”.
- iv. The PHRA should be amended to extend original jurisdiction to the HRC(s), allowing the special judge to take immediate cognizance of the offences.

In conclusion the author(s) opine that the provisions of the PHRA are in desperate need for an amendment for bringing the HRC(s) in action. As a result, the author(s) make an impassioned plea to the country's legislature to act as soon as possible for the sake of stronger human rights protection.